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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 26, 2000

APPLICATION OF

SOUTHSIDE ELECTRIC COOPERATIVE, INC.

For clarification of certificated area or, in the alternative, a reclassification and certification of a previous service area pursuant to § 56-265.1 et seq. of the Code of Virginia

CASE NO. PUE000179

ORDER FOR NOTICE AND HEARING

On April 3, 2000, Southside Electric Cooperative ("Southside" or "the Cooperative") filed an application with the State Corporation Commission ("Commission") seeking clarification of its certificated service area, or in the alternative, the reclassification and certification of areas it previously served. Specifically, the Cooperative requests that the Commission:

(i) find, as a matter of law, that the federal statutes that allowed the federal government to condemn, take, and use property in Southside's service territory to establish Fort Pickett, constituted only a temporary suspension of Southside's territorial allocation, and that the "privatization" of the Fort Pickett territory in 1997 caused that territory to be reinstated as the service territory of Southside as the original provider of service in that area; or (ii) alternatively, that the real estate formerly

subject to federal jurisdiction as Fort Pickett, be re-classified and certificated pursuant to § 56-265.1 et seq. of the Code of Virginia, as amended, as a portion of Southside's service territory.

Fort Pickett is a 45,000 acre United States military installation located in Nottoway, Dinwiddie, and Brunswick Counties. Southside contends in its application that since its inception as an electrical utility cooperative in 1937, it served all of the area surrounding and including Fort Pickett's 45,000 acres until the territory was condemned by the federal government and title transferred to the government. According to the Cooperative, Fort Pickett was established by the federal government in April 1942.

Southside notes in its application that, subsequent to taking possession of the territory for Fort Pickett, the federal government constructed, managed, and maintained its own electrical utility delivery system within the bounds of Fort Pickett to the exclusion of all other electric utility companies. According to the Cooperative, in July 1995, the Federal Government Base Realignment and Closure Commission recommended closure of Fort Pickett, except for the essential training areas and facilities used for reserve components. Fort Pickett was scheduled for closure on September 30, 1997. The Cooperative represents in its application that certain assets of

Fort Pickett have been sold and other assets, including the real estate associated with Fort Pickett, have been or are being sold and conveyed to private interests. Southside asserts that the territory which it previously served as an electric public utility and which was used by the federal government when Fort Pickett was established is, in fact, Southside's territory. The Cooperative contends that the federal government's condemnation and use of that territory, as a matter of law, only superseded Southside's legal rights to have the territory "certified" in 1950 as Southside's service territory during the time the federal government occupied Fort Pickett as its military base. Southside maintains that, upon the closure and sale of the Fort Pickett assets, including the real estate that was a portion of the Cooperative's previously designated service territory, such territory reverted to Southside. The Cooperative has requested the opportunity to have a hearing before the Commission in order to present such evidence as may be necessary to prove its case.

On April 18, 2000, the Town of Blackstone ("the Town" or "Blackstone"), by counsel, filed a notice of protest wherein it advised the Commission of its interest in the proceeding and of its intent to fully participate as a Protestant in the proceeding by, among other things, submitting evidence at the hearing to be held on Southside's application. Blackstone advised that it has made a proposal to the U. S. Department of

the Army to purchase and operate the Fort Pickett electric distribution system and to provide retail electric service within the area being retained by the U. S. government (the "Enclave Area") and within areas designated as "excess" by the U. S. government (the "Excess Area"). If that proposal is accepted, Blackstone represents that it intends to provide electric service to customers formerly served by that system, as well as new customers seeking its services in the Enclave Area and the Excess Area. Blackstone asserts that Southside's claim that Fort Pickett is part of its exclusive service territory is erroneous and that Southside's application is inadequate to support the relief requested in the application.

NOW, UPON CONSIDERATION of the captioned application, the Commission is of the opinion and finds that this matter should be docketed; that a public hearing should be convened in this matter; that the Cooperative should file a detailed legal memorandum supporting the relief it requests in its application, together with all prefiled testimony it intends to rely upon to support its application and the relief it requests in this matter; that notice of the application should be given to interested parties affected by the application; that interested parties should be given the opportunity to prefile direct testimony and a brief supporting the relief they request or to comment on the Cooperative's application; that Blackstone should

file prefiled direct testimony, together with a legal memorandum supporting the assertions made in its April 18, 2000, notice of protest; and that the Commission Staff should investigate the application and file a report detailing its investigation which may take the form of testimony. Accordingly,

IT IS ORDERED THAT:

(1) This matter be docketed and assigned Case No. PUE000179.

(2) A public hearing on the application shall be convened on Tuesday, July 25, 2000, at 10:00 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia for the purpose of receiving evidence relevant to the Cooperative's application.

(3) On or before May 18, 2000, the Cooperative shall file with the Clerk of the Commission an original and fifteen (15) copies of a detailed legal memorandum, which, at a minimum, shall address: (i) the legal description of the property Southside now asks the Commission to find should be reinstated as part of the Cooperative's service territory; (ii) all of the pertinent legal authority supporting the relief which the Cooperative seeks in its application; and (iii) all pertinent legal authority supporting the Commission's jurisdiction to grant such relief in this matter. On or before May 18, 2000,

the Cooperative shall also serve a copy of its memorandum on the Commission Staff, the Town, and any other parties of record.

(4) On or before May 18, 2000, the Cooperative shall file with the Clerk of the Commission an original and fifteen (15) copies of any direct testimony and exhibits it intends to present in support of the captioned application and the relief requested therein, and shall serve a copy of the same upon the Commission Staff, the Town, and any other parties of record.

(5) Copies of Southside's application and accompanying documents shall be made available for public inspection in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, between the hours of 8:15 a.m. and 5:00 p.m., or can be ordered from counsel for the Cooperative John M. Boswell, Esquire, Boswell & Williamson, P.O. Box 45, Crewe, Virginia 23930.

(6) Any interested party may request a copy of the Cooperative's application, accompanying materials, and this Order by directing a request for the same in writing to counsel for the Cooperative, John M. Boswell, Esquire, Boswell & Williamson, P.O. Box 45, Crewe, Virginia 23930.

(7) Within five (5) days of receipt of a written request for a copy of the Cooperative's application, accompanying materials, and the Order Requiring Notice and Comment, Southside

shall serve upon each such person making such a request, copies of this Order, the Cooperative's application as well as all materials now or hereafter filed in this matter.

(8) On or before June 16, 2000, the Town of Blackstone shall file with the Clerk of the Commission an original and fifteen (15) copies of a detailed legal memorandum, that shall address the relief sought by the Cooperative and the relief requested by Blackstone, the Town's authority to serve the areas in the Enclave Area and the Excess Area, a legal description of the areas the Town wishes to serve, together with any pertinent legal authority addressing the Commission's jurisdiction to grant the relief Blackstone requests in this matter. On or before June 16, 2000, the Town shall serve a copy of its legal memorandum on counsel for Southside, the Commission Staff, and any other parties of record.

(9) On or before June 16, 2000, Blackstone shall file with the Clerk of the commission an original and fifteen (15) copies of a protest and any direct testimony and exhibits the Town intends to present concerning Southside's application and in support of the assertions made in its notice of protest. On or before June 16, 2000, the Town shall serve a copy of its protest and direct testimony on counsel for Southside, the Commission Staff, and any other parties of record.

(10) On or before June 1, 2000, any person desiring to participate as a protestant, as defined in Rule 4:6, 5 VAC 5-10-180, of the Commission's Rules of Practice and Procedure ("Rules"), shall file with the Clerk of the Commission an original and fifteen (15) copies of a notice of protest, as provided in Rule 5:16(a), 5 VAC 5-10-420(B), and shall on the same date serve a copy of said notice on counsel to Southside John M. Boswell, Esquire, Boswell & Williamson, P.O. Box 45, Crewe, Virginia 23930.

(11) Within five (5) days of receipt of a notice of protest, Southside shall serve upon each person filing a notice of protest a copy of this Order and a copy of the application and all materials accompanying the application.

(12) On or before June 16, 2000, any interested party desiring to participate as a protestant, as defined in Rule 4:6, 5 VAC 5-10-180, of the Rules, shall file with the Clerk of the Commission an original and fifteen (15) copies of a protest, as required by Rule 5:16(b), 5 VAC 5-10-420(C), a legal brief addressing the relief the protestant requests in this matter and the Commission's jurisdiction to grant that relief, together with an original and fifteen (15) copies of the testimony and exhibits the party intends to offer in support of the protest. The protestant shall serve one (1) copy of the protest, brief, testimony, and exhibits on counsel for the Cooperative at the



address listed above and on all other parties and the Commission Staff.

(13) Any person desiring to comment in writing on the Cooperative's application may do so by directing an original and five (5) copies of such written comments on or before June 16, 2000, to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Such comments must refer to Case No. PUE000179. Interested parties filing comments shall, on or before June 16, 2000, mail a copy of said comment to counsel for the Cooperative, John M. Boswell, Esquire, Boswell & Williamson, P.O. Box 45, Crewe, Virginia 23930. Any person desiring to make a statement at the public hearing concerning the application need only appear in the Commission's second floor courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Bailiff as a public witness.

(14) The Commission Staff shall investigate the Cooperative's application and, on or before June 28, 2000, file with the Clerk of the Commission an original and fifteen (15) copies of a report detailing its investigation which may take the form of testimony and shall serve one (1) copy of its report or testimony on each party of record.

(15) On or before July 14, 2000, Southside shall file with the Clerk of the Commission an original and fifteen (15) copies

of any rebuttal testimony and exhibits that it intends to offer in response to the testimony and exhibits previously filed and shall serve one (1) copy of the same on each party and the Staff. Service of said rebuttal testimony on each party and the Commission Staff shall be made on or before July 14, 2000.

(16) Rule 6:4 of the Commission's Rules of Practice and Procedure, Interrogatories to Parties or Requests for the Production of Documents and Things, 5 VAC 5-10-480, shall be modified for this proceeding to require that answers and responses to interrogatories shall be served within seven (7) calendar days after the receipt of same.

(17) On or before May 18, 2000, Southside shall publish the following notice as classified advertising on one occasion in newspapers of general circulation throughout its service territory as well as in newspapers of general circulation in and around Fort Pickett, located in Nottoway, Dinwiddie, and Brunswick Counties, Virginia:

NOTICE TO THE PUBLIC OF SOUTHSIDE ELECTRIC  
COOPERATIVE'S APPLICATION FOR CLARIFICATION  
OF CERTIFICATED AREAS OR, ALTERNATIVELY,  
CERTIFICATION OF FORT PICKETT WITHIN  
SOUTHSIDE'S SERVICE AREA  
CASE NO. PUE000179

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On April 3, 2000, Southside Electric Cooperative ("Southside" or "the Cooperative") filed with the State Corporation Commission ("Commission") an application seeking clarification of the Cooperative's certificated service territory

to include the territory encompassing Fort Pickett, or, in the alternative, requesting the reclassification and certification of Fort Pickett as part of Southside's service territory. In its application, Southside states that Fort Pickett, a United States military installation, includes forty-five thousand (45,000) acres of real estate located in the Counties of Nottoway, Dinwiddie, and Brunswick, Virginia. Specifically, the Cooperative requests that the Commission find as a matter of law, that the federal statutes that allowed the federal government to condemn, take, and use the Fort Pickett territory, which, the Cooperative maintains, was a portion of its service territory, only temporarily superseding Southside's territorial allocation, and that the privatization of the Fort Pickett territory caused that territory to be reinstated as Southside's service territory. Alternatively, the Cooperative requests that the Commission find that the real estate formerly subject to federal jurisdiction as Fort Pickett be re-classified and certificated pursuant to § 56-265.1 et seq. of the Code of Virginia as a portion of Southside's service territory.

A public hearing on the Cooperative's application shall be convened on July 25, 2000, at 10:00 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia. Copies of Southside's application and accompanying documents are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, at the State Corporation Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or can be ordered from Southside's counsel John M. Boswell, Esquire, Boswell & Williamson, P.O. Box 45, Crewe, Virginia 23930.

Any person desiring to comment in writing on Southside's application may do so by directing an original and five (5) copies of such comments on or before June 16, 2000, to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Written comments must refer to Case No. PUE000179. On or before June 16, 2000, persons filing comments shall mail a copy of the comments or requests to the Cooperative's counsel, John M. Boswell, Esquire, at the address set forth above. Any person desiring to make a statement at the public hearing concerning Southside's application need only appear in the Commission's second floor courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself as a public witness to the Commission's Bailiff.

Any person who expects to submit evidence, cross-examine witnesses, or otherwise participate in the proceeding as a protestant pursuant to Rule 4:6 of the Commission's Rules of Practice and Procedure, 5 VAC 5-10-180, should promptly obtain a copy of the Order for Notice and Hearing entered herein from the Clerk of the Commission at the address set out below for the complete details of the procedural schedule and instructions on participation in this case.

Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing date at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

All written communications to the Commission concerning Southside's application should be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center,

P.O. Box 2118, Richmond, Virginia 23218, and must refer to Case No. PUE000179.

SOUTHSIDE ELECTRIC COOPERATIVE

(18) On or before May 18, 2000, Southside shall serve a copy of this Order on the Chairman of the Board of Supervisors of any county and upon the Mayor or Manager of any county, city, or town (or equivalent officials in counties, towns, and cities having alternate forms of government) within Southside's service area and the area surrounding Fort Pickett. Service shall be made by first-class mail or delivery to the customary place of business or residence of the person served.

(19) Southside shall provide the Commission with proof of the newspaper publication and proof of the service on local officials required herein by Ordering Paragraphs (17) and (18) respectively at the public hearing scheduled for July 25, 2000.